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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/993,663	11/27/2001	Toshiaki Sasaki	00862.022452.	8052
5514	7590	11/10/2009	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 1290 Avenue of the Americas NEW YORK, NY 10104-3800				NAJARIAN, LENA
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/993,663	SASAKI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	LENA NAJARIAN	3686	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 18 August 2009.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,3,5-8,10,12-14,100,101 and 103 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1,3,5-8,10,12-14,100,101 and 103 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____.   | 6) <input type="checkbox"/> Other: _____ .                        |

## **DETAILED ACTION**

### ***Notice to Applicant***

1. This communication is in response to the amendment filed 8/18/09. Claims 1, 5, 8, 12, 100, and 101 have been amended. Claims 2, 4, 9, 11, 15-99, and 102 are cancelled. Claims 1, 3, 5-8, 10, 12-14, 100, 101, and 103 are pending.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3, 6-8, 10, 13, 14, 100, and 103 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bayne (US 2005/0060198 A1) in view of Reuss et al. (US 6,406,426 B1), and further in view of Muranaga (US 6,944,464 B2).

(A) As per claim 8, Bayne discloses a health management method of managing health of each patient, including the steps of:

providing a portable terminal carried by a user with a display screen, radio communication means for accessing a predetermined radio communication network, storage means storing personal information of the user, and an input/output device for supporting health management for the user, (Bayne, Abstract; ¶ 36, 39-41); and

an emergency notification switch to enter an emergency notification mode, (Bayne, ¶ 32, 78).

providing a database for communicating with each portable terminal with personal information storage means storing the personal information about each user carrying the portable terminal, medical information storage means storing information about a medical facility, a drugstore, a medicine, and the input/output device, and communication means for communicating with the portable terminal through the radio communication network, (Bayne, Abstract; ¶ 36, 45-47, 96);

transmitting part of the personal information stored in the storage means by the radio communication means when starting to communicate with the database, (Bayne, Abstract; ¶ 36, 45);

identifying using the database, the user of the portable terminal by collating the part of the information transmitted from the radio communication means with information stored in the personal information storage means, (Bayne, Abstract; ¶ 36, 45); and

activating an emergency handling means which is included in the database and which provides either communication with a medical facility whose information is stored in the medical information storage means or information stored in the medical information storage means, which is necessary for the identified user (Bayne, ¶ 32, 50, 78), and

wherein the personal information includes information of a clinical chart of the user and prescription, (Bayne ¶ 93).

Bayne does not disclose that the portable terminal carried by the patient enters an emergency notification mode.

Reuss discloses that the portable terminal carried by the patient enters an emergency notification mode (see col. 3, line 61 – col. 4, line 7 and col. 6, line 60 – col. 7, line 26 of Reuss).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned features of Reuss within Bayne. The motivation for doing so would have been to provide alert condition and status data to remote caregivers (col. 6, lines 60-62 of Reuss).

Bayne and Reuss do not disclose said portable terminal further comprises position information acquisition means for acquiring position information of said terminal, and, in the step of activating, said emergency handling means causes said portable terminal to display information about a route from a position of said portable terminal to a suitable medical facility or drugstore on said display screen on the basis of the position information transmitted from said position information acquisition means.

Muranaga discloses said portable terminal further comprises position information acquisition means for acquiring position information of said terminal, and, in the step of activating, said emergency handling means causes said portable terminal to display information about a route from a position of said portable terminal to a suitable medical facility on said display screen on the basis of the position information transmitted from

said position information acquisition means (Fig. 1, Fig. 7, col. 3, lines 60-67, col. 6, lines 11-23, and col. 9, lines 8-26 of Muranaga).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned features of Muranaga within Bayne and Reuss. The motivation for doing so would have been so that the user can arrive at the institution more easily (col. 9, lines 23-26 of Muranaga).

(B) As per claim 10, Bayne discloses a method wherein the radio communication means and the communication means perform encryption/decryption in accordance with a predetermined scheme in transmitting/receiving at least part of the personal information, (Bayne, ¶ 45).

(C) As per claim 13, Bayne discloses a method wherein in the database, when no information is transmitted a predetermined period of time after a specific signal is transmitted from the radio communication means, communication is made to an emergency facility, (Bayne, ¶ 77-84) (disclosing automatic emergency call initiation).

(D) As per claim 14, Bayne discloses a method wherein part of the information includes information about biometrical characteristics of the patient, (Bayne ¶ 93).

(E) As per claims 1, 3, 6, and 7, these system claims contain the same or similar limitations as the corresponding method claims 8, 10, 13, 14, respectively, and are therefore rejected for the same reasons given above.

(F) As per claim 100, Bayne discloses an information provision method for providing medical information about health, a medical treatment or a medicine from a database, comprising steps of:

receiving, from a portable terminal carried by a user through a network, user information stored in the portable terminal and an emergency notification for entering an emergency notification mode, (Bayne, ¶ 32, 50, 78);

wherein the personal information includes information of a clinical chart of the user and prescription, (Bayne ¶ 93).

identifying the user by collating the user information transmitted from the portable terminal with personal information stored in the database(Bayne, ¶ 32, 50, 78); and

activating an emergency handling means which is included in the database and provides either communication with a medical facility or the medical information stored in the database to the portable terminal of the identified user in the emergency notification mode, (Bayne, ¶ 32, 50, 78).

Bayne does not disclose that the portable terminal carried by the patient enters an emergency notification mode.

Reuss discloses that the portable terminal carried by the patient enters an emergency notification mode (see col. 3, line 61 – col. 4, line 7 and col. 6, line 60 – col. 7, line 26 of Reuss).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned features of Reuss within Bayne. The

motivation for doing so would have been to provide alert condition and status data to remote caregivers (col. 6, lines 60-62 of Reuss).

Bayne and Reuss do not disclose wherein said portable terminal further comprises position information acquisition means for acquiring position information of said terminal, and, in the step of activating, said emergency handling means causes said portable terminal to display information about a route from a position of said portable terminal to a suitable medical facility or drugstore on said display screen on the basis of the position information transmitted from said position information acquisition means.

Muranaga discloses said portable terminal further comprises position information acquisition means for acquiring position information of said terminal, and, in the step of activating, said emergency handling means causes said portable terminal to display information about a route from a position of said portable terminal to a suitable medical facility on said display screen on the basis of the position information transmitted from said position information acquisition means (Fig. 1, Fig. 7, col. 3, lines 60-67, col. 6, lines 11-23, and col. 9, lines 8-26 of Muranaga).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned features of Muranaga within Bayne and Reuss. The motivation for doing so would have been so that the user can arrive at the institution more easily (col. 9, lines 23-26 of Muranaga).

(G) As per claim 103, Bayne discloses an information provision method wherein the medical information is route information about a suitable medical facility or drugstore for the identified patient, (Bayne, ¶ 39, 40, 50).

4. Claims 5 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bayne, (U.S. 2005/0060198), in view of Reuss et al. (US 6,406,426 B1), and in view of Mishelevich et al., (U.S. 5,363,842), and further in view of Muranaga (US 6,944,464 B2).

(A) As per claim 12, Bayne discloses a health management method of managing health of each patient, including the steps of:

providing a portable terminal carried by a user with a display screen, radio communication means for accessing a predetermined radio communication network, storage means storing personal information of the user, and an input/output device for supporting health management for the user, (Bayne, Abstract; ¶ 36, 39-41); and

an emergency notification switch to enter an emergency notification mode, (Bayne, ¶ 32, 78).

providing a database for communicating with each portable terminal with personal information storage means storing the personal information about each user carrying the portable terminal, medical information storage means storing information about a medical facility, a drugstore, a medicine, and the input/output device, and

communication means for communicating with the portable terminal through the radio communication network, (Bayne, Abstract; ¶ 36, 45-47, 96);

transmitting part of the personal information stored in the storage means by the radio communication means when starting to communicate with the database, (Bayne, Abstract; ¶ 36, 45);

identifying using the database, the user of the portable terminal by collating the part of the information transmitted from the radio communication means with information stored in the personal information storage means, (Bayne, Abstract; ¶ 36, 45); and

activating an emergency handling means which is included in the database and which provides either communication with a medical facility whose information is stored in the medical information storage means or information stored in the medical information storage means, which is necessary for the identified user, in accordance with information transmitted from said radio communication means (Bayne, ¶ 32, 50, 78),

the personal information includes information of a clinical chart of the patient and a prescription (Bayne ¶ 93).

Bayne does not disclose that the portable terminal carried by the patient enters an emergency notification mode.

Reuss discloses that the portable terminal carried by the patient enters an emergency notification mode (see col. 3, line 61 – col. 4, line 7 and col. 6, line 60 – col. 7, line 26 of Reuss).

Bayne and Reuss fail to disclose a method wherein the input/output device is an inhaler for discharging a medicine in the form of fine droplets to make the user inhale the droplets, and the information about the input/output device includes information about handling of the inhaler. However, such a method is well known in the art as evidenced by Mishelevich, (Mishelevich, Abstract, col. 4, line 35 - col. 5, line 18).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the aforementioned features of Mishelevich and Reuss within Bayne. The motivation would have been to create a hand-held inhaler device to provide information to both patient and healthcare professional regarding correct usage, actuation, flow rate, and duration (Mishelevich, col. 4, lines 16-32) and to provide alert condition and status data to remote caregivers (col. 6, lines 60-62 of Reuss).

Bayne, Reuss, and Mishelevich do not disclose said portable terminal further comprises position information acquisition means for acquiring position information of said terminal, and, in the step of activating, said emergency handling means causes said portable terminal to display information about a route from a position of said portable terminal to a suitable medical facility or drugstore on said display screen on the basis of the position information transmitted from said position information acquisition means.

Muranaga discloses said portable terminal further comprises position information acquisition means for acquiring position information of said terminal, and, in the step of activating, said emergency handling means causes said portable terminal to display

information about a route from a position of said portable terminal to a suitable medical facility on said display screen on the basis of the position information transmitted from said position information acquisition means (Fig. 1, Fig. 7, col. 3, lines 60-67, col. 6, lines 11-23, and col. 9, lines 8-26 of Muranaga).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned features of Muranaga within Bayne, Reuss, and Mishelevich. The motivation for doing so would have been so that the user can arrive at the institution more easily (col. 9, lines 23-26 of Muranaga).

(B) As per claim 5, the system claim contains the same or similar limitations as the corresponding method claim 12. As such, claim 5 is rejected for the same reasons given for claim 12 above.

5. Claim 101 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bayne, (U.S. 2005/0060198), in view of Reuss et al. (US 6,406,426 B1), in view of Mishelevich et al., (U.S. 5,363,842), and in view of Muranaga (US 6,944,464 B2) and further in view of Voges (U.S. 5,894,841).

(A) Claim 101 repeats substantially the same limitations as claim 12. However, the collective system of Bayne, Reuss, Mishelevich, and Muranaga fails to disclose a method wherein said portable terminal includes an inhaler which discharges a medicine on the basis of an ink-jet scheme using heat,

Voges discloses wherein said portable terminal includes an inhaler which discharges a medicine on the basis of an ink-jet scheme using heat (Voges, Abstract; col. 4, lines 34-67, col. 5, lines 20-25).

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the ink-jet system of Voges to the collective system of Bayne, Reuss, Mishelevich, and Muranaga. The motivation would have been to provide precise dose control (Voges, col. 2, lines 7-9).

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1, 5, 8, 12, 100, and 101 have been considered but are moot in view of the new ground(s) of rejection.

7. Applicant's additional arguments filed 8/18/09 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed 8/18/09.

(1) Applicant argues that it is essential to the method of Bayne that the portable computer be carried by the clinician and that if Bayne were modified by Reuss such that the portable computer is carried by the patient, the resulting combination would render Bayne unsatisfactory for its intended purpose.

(A) In response to applicant's argument that if Bayne were modified by Reuss the resulting combination would render Bayne unsatisfactory for its intended purpose, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied prior art teaches an emergency call system (US 6,198,914 B1).
  
9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LENA NAJARIAN whose telephone number is (571) 272-7072. The examiner can normally be reached on Monday - Friday, 9:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on (571) 272-6787. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or (571) 272-1000.

/L. N./  
Examiner, Art Unit 3686  
In  
10/27/09

/Gerald J. O'Connor/  
Supervisory Patent Examiner  
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